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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Taka-Aki Sato
U.S. Serial No.: CPA of 09/327,750 Examiner: J.A. Goldberg
Filing Date : June 7, 1999 Group Art Unit: 1634
For : GENE ENCODING NADE, P75^{NTR}-ASSOCIATED CELL
DEATH EXECUTOR AND USES THEREOF

1185 Avenue of the Americas
New York, NY 10036
September 27, 2002

Assistant Commissioner for Patents
Box: CPA
Washington, D.C. 20231

Sir:

PRELIMINARY AMENDMENT

This Preliminary Amendment is submitted in connection with the above-identified Continued Prosecution Application (CPA) which is being filed herewith. In parent application U.S. Serial No. 09/327,750, a March 27, 2002 Office Action was issued, a response to which was originally due on June 27, 2002. Applicant is concurrently filing a Petition for a Three-Month Extension of Time in which to file a response, making a response due on September 27, 2002. Accordingly, the parent application is pending today, and the subject CPA and Preliminary Amendment are being timely filed.

Please amend the subject application as follows:

In the Specification:

Please replace the Sequence Listing in the subject application

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with the Sequence Listing annexed hereto as Exhibit A.

In the Claims:

Please cancel claims 1-4, 8-23 and 132 without prejudice to applicant's right to pursue the subject matter of these claims in a future continuation or divisional application.

Please add new claims 134-146 as follows:

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134. (New)

A method for determining whether an agent decreases apoptosis comprising:

- (a) contacting the agent with a cell death executor and a p75 neurotrophin receptor under conditions which, in the absence of the agent, permit the formation of a complex between the cell death executor and the receptor;
- (b) determining the amount of complex formed in step (a) between the cell death executor and the receptor; and
- (c) determining whether the amount of complex determined in step (b) is less than the amount of complex formed in the absence of the agent, such lower amount indicating that the agent decreases apoptosis.

135. (New)

A method for determining whether an agent increases apoptosis comprising:

- (a) contacting the agent with a cell death executor and a p75 neurotrophin receptor

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under conditions which, in the absence of the agent, permit the formation of a complex between the cell death executor and the receptor;

- (b) determining the amount of complex formed in step (a) between the cell death executor and the receptor; and
- (c) determining whether the amount of complex determined in step (b) is greater than the amount of complex formed in the absence of the agent, such greater amount indicating that the agent increases apoptosis.

- 136. (New) The method of claim 134 or 135, wherein the cell death executor is NADE.
- 137. (New) The method of claim 134 or 135, wherein the contacting of step (a) is performed in vitro.
- 138. (New) The method of claim 137, wherein the contacting of step (a) is performed in an intact cell.
- 139. (New) The method of claim 138, wherein the intact cell is a neuron, a cardiac cell, or a lung cell.
- 140. (New) The method of claim 137, wherein the contacting of step (a) is not performed in an intact cell.
- 141. (New) A method for determining whether an agent decreases apoptosis comprising:
 - (a) contacting the agent with a cell that

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expresses a cell death executor and a p75 neurotrophin receptor;

- (b) determining the expression level of the cell death executor in the cell; and
- (c) determining whether the expression level determined in step (b) is lower than the cell death executor expression level determined in the absence of the agent, such lower expression level indicating that the agent decreases apoptosis.

142. (New) A method for determining whether an agent increases apoptosis comprising

- (a) contacting the agent with a cell that expresses a cell death executor and a p75 neurotrophin receptor;
- (b) determining the expression level of the cell death executor in the cell; and
- (c) determining whether the expression level determined in step (b) is greater than the cell death executor expression level determined in the absence of the agent, such greater expression level indicating that the agent increases apoptosis.

143. (New) The method of claim 141 or 142, wherein the cell death executor is NADE.

144. (New) The method of claim 141 or 142, wherein the contacting of step (a) is performed in vitro.

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cancel*

145. (New) The method of claim 141 or 142, wherein the contacting of step (a) is performed *in vivo*.

146. (New) The method of claim 141 or 142, wherein the cell is a neuron, a cardiac cell, or a lung cell.

REMARKS

Claims 1-4, 8-23 and 132 are pending in the subject application. By this Preliminary Amendment, applicant has cancelled claims 1-4, 8-23, and 132, and has added new claims 134-146. Accordingly, claims 134-146 will be pending in the subject application upon entry of this Preliminary Amendment.

Support for new claims 134, 135, 141 and 142 may be found in the specification at, *inter alia*, page 5, lines 6-31. Support for new claims 136 and 143 may be found in the specification at, *inter alia*, page 58, lines 9-15. Support for new claims 137 and 144 may be found in the specification at, *inter alia*, page 54, lines 35 to page 55, line 2. Support for new claims 138, 139, 140 and 146 may be found in the specification at, *inter alia*, page 53, lines 35-37. Support for new claim 145 may be found in the specification at, *inter alia*, page 55, lines 5-7.

Applicant notes that the corrected Sequence Listing annexed hereto as **Exhibit A**, the enclosed computer-readable form thereof, and the Statement in Accordance with 37 C.F.R. §1.821(f) annexed hereto as **Exhibit B** have been introduced in order to address the Examiner's objection under 35 U.S.C. §132 raised in the March 27, 2002 Office Action.

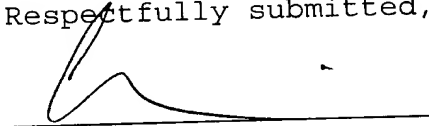
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Applicant maintains that the addition of new claims 134-146 does not raise any issue of new matter, and respectfully requests entry of this Preliminary Amendment.

If a telephone interview would be of assistance in advancing prosecution of the subject application, applicant's undersigned attorneys invite Examiner to telephone them at the number provided below.

No fee, other than the enclosed \$370 for filing a CPA, is deemed necessary in connection with the filing of this Preliminary Amendment. However, if any additional fee is required, authorization is hereby given to charge the amount of such fee to Deposit Account No. 03-3125.

Respectfully submitted,



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